

REMARKS

The claims are 1, 5-16 and 18-22. Claims 2-4 and 17 have been cancelled without prejudice or disclaimer. Claims 1, 5, 7 and 18 have been amended to better define the invention. Reconsideration of the present claims is respectfully requested.

The claims of the present invention are subject to restriction. Applicants hereby confirm election of Group I, claims 1-16 and 18-22 for prosecution. Claim 17 has been cancelled without prejudice or disclaimer for pursuing the claimed subject matter in a later filed divisional application.

Claims 1, 2, 8, 10 and 11 stand rejected under 35 U.S.C. §103 as allegedly obvious over DE 3337405 (Uftring) in view of an alleged admission of prior art, U.S. Patent No. 6,283,694 (Spatafora), U.S. Patent No. 1,987,336 (Powell) and U.S. Patent No. 5,768,996 (Ackley '996). Claim 3 stands rejected over the same art further in view of U.S. Patent No. 787887 (Baker). Claims 4-7 stand rejected in view of all the previously cited art further in view of U.S. Patent No. 4,168,321 (Okamoto). Claim 16 stands rejected as allegedly obvious over Uftring in view of the allegedly admission of prior art, Spatafora, Powell and Ackley '996 further in view of JP 63196229 (Morishita). Claims 1, 2, 9 and 12-15 stand rejected as allegedly obvious over U.S. Patent No. 5,419,246 (Bibby) in view of the alleged admission of prior art, Uftring and U.S. Patent No. 4,672,892 (Ackley '892). Claims 18, 19 and 21 were rejected as allegedly obvious over Uftring in view of Spatafora, Powell and Ackley '996. Claim 22 was rejected as allegedly obvious over Uftring in view of Spatafora, Powell and Ackley '996 and further in view of Morishita. Lastly, claim 20 was rejected as allegedly obvious over Uftring in view of Spatafora, Powell and Ackley

'996 and further in view of Bibby and U.S. Patent 4,672,892 (Ackley '892). Applicants respectfully traverse these rejections, particularly in view of the presently amended claims.

The Examiner will note that the presently amended claims are directed to a method and apparatus for placing pellet shaped candy pieces in the recesses of chocolate tablets in a particular predetermined arrangement. The problems associated with arranging candy pieces on a chocolate tablet are significantly different than those associated with placing chocolate chips on a cake surface. In that regard that the limitations of claims 4 and 3 have been incorporated into amended claim 1. A similar change has been made with respect to apparatus claim 18. Thus, these changes are not new matter and it is respectfully submitted that the claims as amended, as well as the advantages associated therewith, are not disclosed or suggested by the cited art.

The Examiner will note that the rejection of original claim 4 required a combination of six different references as well as an allegation of admission of prior art. While not conclusive, generally, a combination of that many references to achieve the claimed invention suggests the possibility of impermissible hindsight analysis.

The primary reference Uftring is directed to a method and apparatus for decorating cakes with a circular pattern of objects. As previously noted, the problems associated with decorating cakes and chocolate tablets are quite different. In particular, when one tries to place a pellet shaped candy on to a predetermined position on the tablet, it can be quite difficult to maintain that position on the chocolate tablet. On the other hand, when placing a decorative piece on a cake, the soft nature of the frosting on the cake readily holds the decorative piece on the case. In the present invention, recesses are provided on the chocolate tablet to help maintain the position of the pellet-shaped candy on

the tablet. Clearly, there is no such suggestion in Uftring to provide recesses for the decorative pieces.

Moreover, it can be seen from the translation of Uftring provided by the Examiner, that Uftring uses a circular separating belt in the transfer region to fill slots in a circular pattern. Unlike the present invention, this pattern is not easily changed. In addition, the pattern that may be achieved using Uftring is quite limited. For example, Uftring could not be employed to place a candy piece in the center of the circle. The present invention provides a great deal of flexibility in pattern design. Furthermore, as recognized by the Examiner, Uftring does not teach pellet-shaped candy pieces or carrier bars with pockets. Accordingly, for all the prior reasons it is clear that Uftring does not disclose or suggest the present invention.

None of the secondary reference remedy the deficiencies of Uftring. With respect to the Examiner's allegation of admitted prior art, it is noted that the statement that "it is known to decorate baked goods by hand placement of candy pieces in a defined pattern" is not relevant to the presently claimed invention. The invention is now directed to chocolate tablets not baked goods.

Spatafora is directed to a method and device for aligning products for packaging after production. Spatafora simply has nothing to do with forming a product, let alone a decorated chocolate product and clearly is not related to the field of endeavor covered by the presently claimed invention. Nor can Spatafora be said to be reasonably pertinent to the problem of decorating chocolate product. Similarly, Powell is related to an apparatus for picking up eggs and transferring them or testing them to locate defects or imperfections. It is respectfully submitted that one of ordinary skill in the art would not

have looked to packaging techniques for placing pellet-shaped candies in a decorative pattern on a chocolate tablet. In fact, the Examiner should also note that Powell has a light source in the transfer suction element to candle eggs, and this light source could possibly melt or damage chocolate decorations. Accordingly, it is respectfully submitted that one of ordinary skill in the art would not have combined either Spatafora or Powell with the disclosure of Uftring as suggested by the Examiner. In fact, it appears that the light source used by Powell would teach away from any such combination.

Ackley '996 and Ackley '892 are simply cited for teaching a conveyor system having carrier bars with pockets. Accordingly, it is respectfully submitted that these disclosures do not remedy the deficiencies of Uftring and the other cited art. Accordingly, Ackley '996 and Ackley '892 do not suggest the presently claimed invention.

Moreover, none of the other cited art relied on by the Examiner in the present office action overcomes the deficiencies of Uftring. Baker, simply discloses the decoration of chocolate products. There is simply no suggestion of decorating chocolate tablets with pellet-shaped candy in a pre-determined pattern. Okamoto prints on a pressed sweet that is formed and held in a bore. This method would not work in the present invention on a pellet-shaped candy because the bore press would likely crush the decoration.

Bibby is directed to laying down a continuous predetermined pattern of granular material on a moving subject. There is simply no suggestion of pellet-shaped candy pieces. Moreover, it should be noted that separate tablets are not conveyed, but instead a sheet of material is conveyed in which a patterned layer is placed thereon and then the substrate is severed into a plurality of products. Applicants respectfully submit


that Bibby simply would not suggest the presently claimed invention or overcome the deficiencies of Ufring previously discussed.

Wherefore, it is respectfully submitted that the cited art, whether taken alone or together, does not disclose or suggest the presently claimed invention.

Accordingly, it is respectfully requested that the claims be allowed and the case be passed to issue.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address given below.

Respectfully submitted,


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